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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058690
Party	Plaintiff Barlow Designs, Inc.
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BARLOW DESIGNS, INC.)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92058690
)	
ALLAN T. HAO CHIN,)	
)	Registration No. 3,593,654
Respondent.)	
)	

Pursuant to Rule 2.124 of the Trademark Rules of Practice, Petitioner BARLOW DESIGNS, INC., by its counsel, hereby gives notice of filing of the attached trial testimony of Steven B. Barlow, taken on April 10, 2015, together with non-confidential Exhibits 1-20 and 22-30. Exhibits 21 and 22 have been deemed "Trade Secret/Commercially Sensitive" under the Standardized Protective Agreement, and are being filed separately under seal.

BARLOW DESIGNS, INC.


 John L. Welch
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document (together with transcript and Exhibits) was served upon Respondent this 22nd day of April 30, 2015, by mailing a copy thereof via first-class mail, postage pre-paid, to Brian Edward Banner, Esq., The Banner Firm, LLC, 2734 Unicorn Lane, N.W., Washington, D.C. 20015.

A handwritten signature in black ink, reading "John L. Welch", is positioned above a horizontal line.

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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
REGISTRATION NO. 3,593,654

BARLOW DESIGNS, INC.,
Petitioner,

vs.

ALLAN T. HAO CHIN,
Respondent.

DEPOSITION OF STEVEN B. BARLOW, a
witness called on behalf of the Respondent,
pursuant to the provisions of the Federal
Rules of Civil Procedure, before Jill
Shepherd, Registered Professional Reporter,
MA-CSR #148608, NH-CSR #128, CA-CSR #13275,
CLR, and Notary Public, in and for the
Commonwealth of Massachusetts, at the
offices of Lando & Anastasi, LLP, One Main
Street, Cambridge, Massachusetts, on Friday,
April 10, 2015, commencing at 9:00 a.m.

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P R O C E E D I N G S

STEVEN B. BARLOW, a witness,
called for examination by counsel for
Respondent, having been satisfactorily
identified by the production of his Rhode
Island driver's license, being first sworn
by the Notary Public, was examined and
testified as follows:

* * * * *

EXAMINATION BY MR. WELCH

Q. Mr. Barlow --

MR. WELCH: Sorry. I'm going to
ask the reporter to mark as Exhibit 1 a
document entitled "Notice of Taking
Testimony Deposition."

(Exhibit No. 1 marked.)

Q. Mr. Barlow, would you take a look at
Exhibit 1, please. I know you are getting
your glasses on --

A. I'm not ready. Sorry.

(Witness reviewing document.)

Q. Are you the Steven Barlow, president of
Barlow Designs, named in that notice?

A. Yes, I am. Yes.

MR. WELCH: Before we continue, I

1 just want to put on the record a stipulation
2 that Mr. Banner and I came to regarding
3 confidentiality. What we agreed to is that
4 the transcript will be considered
5 "confidential - attorneys' eyes only" until
6 the original transcript is received by and
7 reviewed by Mr. Barlow, and we'll have
8 15 days to designate which pages are going
9 to be deemed confidential for purposes of
10 filing.

11 MR. BANNER: Yes.

12 MR. WELCH: So we will just go
13 through here this testimony without
14 designating what's confidential and what's
15 not and we'll straighten that out later.

16 Right, Mr. Banner?

17 MR. BANNER: That's correct.

18 MR. WELCH: Thank you.

19 Q. Mr. Barlow, I think you indicated you are
20 the president of Barlow Designs, Inc.?

21 A. Yes, I am.

22 Q. And where is Barlow Designs Inc. located?

23 A. We're located in East Providence,
24 Rhode Island.

25 Q. And how long have you been with Barlow

1 Designs, Inc.?

2 A. Since the beginning, in 1978.

3 Q. And did you form the company yourself?

4 A. Yes, I did.

5 Q. And have you been president of the company
6 ever since?

7 A. Yes, I have.

8 Q. What does Barlow Designs, Inc. do?

9 A. We manufacture and distribute a number of
10 products, including men's/women's items,
11 jewelry, women's accessories, clothing,
12 whole variety, range of products, as well as
13 decorative accessories.

14 Q. Are they both men's and women's product?

15 A. Yes, they are.

16 Q. And children's?

17 A. Yes, there are some.

18 Q. I'm sorry.

19 Were you involved in choosing the mark
20 Periwinkle?

21 A. Yes.

22 MR. WELCH: Just for the record,
23 there's going to be several variations.

24 Do you know how to spell that? It's
25 P-E-R-I-W-I-N-K-L-E, the normal spelling.

1 Q. And how did that come about?

2 A. Well, my middle daughter's name is Perri,
3 and so her childhood nickname was
4 Periwinkle; still is actually, even though
5 she's 30. And so when we developed the
6 jewelry line, we thought Periwinkle was kind
7 of a nice name that has a particular color
8 that matches the cards and color we still
9 use on our tagging and packaging to this
10 day.

11 Q. And do you remember when that was,
12 approximately when you chose that?

13 A. I believe it was in 2002 and we started
14 selling our initial products.

15 Q. And what products?

16 A. It was jewelry. Mostly jewelry.

17 Q. And that was 2002?

18 A. Correct.

19 Q. Did you eventually expand beyond the
20 jewelry?

21 A. Yes. Yeah. Started moving into women's
22 accessories. It was a natural extension of
23 our product line.

24 Q. What do you mean by "women's accessories"?

25 A. Well, it was scarves, pashminas, belts,

1 hats, handbags. I think there were some
2 other things. I can't remember.

3 Q. When did you first start selling these
4 accessories?

5 A. I believe it was in -- I think it was 2005
6 we started that and started expanding out.

7 Q. And did those accessories -- I think you
8 said they included some clothing items?

9 A. Yes. The first items were pashminas and
10 scarves. Pashminas are kind of larger
11 scarves and a little more decorative, a
12 little more elaborate. We were the first
13 ones to bring them into the gift industry
14 because we sell through gift stores --
15 primarily through gift stores. We also have
16 boutiques and catalogs and larger retailers
17 that we have served.

18 Q. You indicated, Mr. Barlow, that your company
19 manufactures some products.

20 What does it manufacture?

21 A. Well, we still have some products
22 100 percent made in America. It's actually
23 ornaments and --

24 Q. You mean like Christmas ornaments?

25 A. Like Christmas ornaments, yes. And

1 coasters. There's some men's jewelry items,
2 and that's under the Barlow -- primarily
3 under the Barlow trademark. And the women's
4 jewelry and accessories while some is
5 domestically made, a lot of it is sourced
6 overseas in Taiwan, China, India, Vietnam;
7 and it's made exclusively for us. And also
8 some of the clothing is all -- is all made
9 in China, though. That's -- I can't think
10 of the name. It's like women's smocks.
11 They don't use the word "smocks," but it's
12 women's clothing as well as the scarves,
13 pashminas.

14 Q. Now, you say that some of the products are
15 made in America.

16 Are any of the products made by your
17 company?

18 A. Yes. Yeah. The ones that are made are
19 100 percent -- and then a lot of what we do,
20 too, is we do subassemblies. So we might
21 source some of your products overseas and
22 we'll decorate and package them at our
23 factory in East Providence.

24 Q. Now, you indicated that in 2005 you started
25 selling -- "you" being the company --

1 started selling pashminas and scarves.

2 What other clothing products does
3 Barlow Designs, Inc. sell or have they sold?

4 A. Well, moved into belts and hats and some
5 dresses, and as I say, some smocks,
6 coveralls. So that's just evolved over time
7 naturally.

8 Q. Where does it sell the clothing products;
9 where geographically?

10 A. All over the U.S., some to the Caribbean,
11 and -- but it's primarily, you know, U.S.
12 and some to Canada.

13 Q. And to whom generally does Barlow sell the
14 products?

15 A. Primarily focused to the gift industry, gift
16 stores, which have expanded heavily into
17 jewelry and women's accessories, and across
18 the country, and which has encroached on the
19 boutique business. And we also sell to the
20 boutique stores as well.

21 Q. And do the stores that you sell your
22 products to, do they display and sell them
23 under the Periwinkle mark?

24 A. Yes, they do.

25 Q. Do you provide the stores with any materials

1 like product displays?

2 A. Yes, we do.

3 MR. WELCH: Let me ask the reporter
4 to mark as Exhibit 2 a one-page document. I
5 don't believe this was produced on the other
6 side. This was not produced to the
7 registrant.

8 MR. BANNER: I don't remember it.

9 (Exhibit No. 2 marked.)

10 Q. Mr. Barlow, would you take a look at the
11 document marked as Exhibit 2 and would you
12 please identify that for the record?

13 A. (Witness reviewing document.)

14 Well, it shows a couple of displays
15 that have "Periwinkle" written on them.

16 Q. Do you know where that page came from?

17 A. I'm sorry. I don't. I'd have to read --
18 might have come from our Web site or
19 something. Again, maybe one of -- yeah.

20 Q. Okay.

21 A. It has a list of the showrooms that sell our
22 products. This would look like it came from
23 our Web site. Some of our sales materials
24 anyways. Sorry.

25 Q. That's quite all right.

1 MR. WELCH: Next I will ask the
2 reporter to mark as Exhibit 3 a document --
3 a trademark, sorry -- a document entitled
4 "Trademark Principal Register," Registration
5 number 3285250.

6 (Exhibit No. 3 marked.)

7 Q. Mr. Barlow, please take a look at Exhibit 3,
8 would you please.

9 Do you recognize that as a trademark
10 registration that your company owns?

11 A. (Witness reviewing document.)

12 Yes, I do.

13 Q. And as far as you know, is that registration
14 still viable?

15 A. Yes, it is.

16 MR. WELCH: I will ask the court
17 reporter to mark as Exhibit 4 a copy of
18 Trademark Registration Number 3335997.

19 (Exhibit No. 4 marked.)

20 Q. Mr. Barlow, please take a look at Exhibit 4.

21 Do you recognize that as a copy of a
22 registration that your company owns?

23 A. (Witness reviewing document.)

24 Yes, it is.

25 Q. And as far as you know, is that registration

1 still viable?

2 A. Yes, it is. I've -- yes, it is.

3 Q. Looking back at Exhibit 3, which is the
4 Periwinkle registration for jewelry, do you
5 see where it says use date of 11/15/2002?

6 A. Yes, I do.

7 Q. Does that refresh your recollection as to
8 when you first started selling jewelry under
9 the Periwinkle mark?

10 A. Yes, it does.

11 Q. And that's the correct date, you believe?

12 A. Yes, it is.

13 Q. And Exhibit 4, if you look for handbags,
14 purses, clutches, and wallets, do you see
15 the first use date of -- does it say
16 1/15/2005?

17 A. Yes, it does.

18 Q. Does that comport with your recollection
19 that your company started selling those
20 goods about that time?

21 A. Yes, it does.

22 Q. So you believe that's the correct date?

23 A. Yes, I do.

24 Q. Has your company been selling jewelry
25 continuously under the Periwinkle mark since

1 2002?

2 A. Yes, I have. Yes, we have.

3 Q. Has your company been continuously selling
4 handbags, purses, clutches, and wallets
5 under the Periwinkle mark since 2005?

6 A. Yes, we have.

7 Q. Does your company distribute catalogs in
8 connection with its Periwinkle brand
9 products?

10 A. Yes, we do.

11 Q. Do you recall when the first catalog was
12 distributed?

13 A. I believe it was in January of 2003.

14 Q. And where geographically was it distributed?

15 A. To our customers around the country and --
16 yes.

17 Q. Okay.

18 Do you recall about how many copies
19 were distributed back in 2003?

20 A. I believe it was several thousand; probably
21 about three thousand or so.

22 Q. Does your company put out one or more
23 catalogs each year?

24 A. Yeah, since that time. Except for one year
25 we put out one catalog, but since then we

1 put out two catalogs a year.

2 Q. Are those distributed across the country?

3 A. Yes, they are.

4 Q. And has the number of catalogs distributed
5 increased over the years?

6 A. It kind of waxes and wanes because we mail
7 them across the country to our customer
8 base, which, you know, vacillates between
9 2,000 to 3,000 active accounts. But I mean,
10 I'm talking about annually. Some will come
11 back the following year. But then we go out
12 to trade shows with them all around the
13 country. So our printing of the catalog is
14 about 7,000 -- somewhere between 7,000 and
15 8,000, and pretty much all those are
16 distributed around the country, again, to
17 our approximately 2,500 active accounts, and
18 again, probably another 1,500 less active
19 accounts, and then prospective accounts.

20 Q. And do you also sell products online to
21 customers?

22 A. Yes. Yes, we do.

23 Q. And do you sell any other way?

24 Do you have sales reps out selling as
25 well?

1 A. Yes. We have approximately 150 independent
2 sales reps across the country that sell for
3 us. And our distribution is wholesale, so
4 our online Web site is to sell to retailers
5 around the country.

6 MR. WELCH: I'm going to ask the
7 reporter to mark as Exhibit 5 -- as
8 Exhibit 5 a document entitled "Fall, Holiday
9 and Resort 2005," and it consists of
10 production documents 0001 through 0006
11 [verbatim].

12 (Exhibit No. 5 marked.)

13 Q. Mr. Barlow, would you please take a look at
14 Exhibit 5 and identify that for the record.

15 A. (Witness reviewing document.)

16 This was our --

17 MR. WELCH: You know, hold on.
18 Stop the process. Can we go back and see --
19 I've got two exhibits here.

20 Exhibit 5, I would like to correct the
21 record. Exhibit 5 is a two-page document, a
22 Barlow production documents 0001 and 0002.

23 Q. Mr. Barlow, would you take a look at
24 Exhibit 5 and identify that for the record,
25 please.

1 A. Yes. This is just a cover, and looks like
2 perhaps a page from inside the cover --
3 inside the catalog of our 2005 Fall, Holiday
4 and Resort catalog.

5 Q. And including the second page, which is
6 production document number two, what
7 products are displayed there?

8 A. We have pashminas and handbags.

9 Q. And now do you believe this is the first
10 time that you included pashminas in your
11 catalogs?

12 A. Yes, I believe that's true.

13 Q. And that would be the Fall, Holiday and
14 Resort 2005 catalog?

15 A. Yes, I believe so.

16 Q. Is there a difference between a pashmina and
17 a wrap, or is that just another way of
18 referring to a pashmina?

19 A. I think -- I think of a pashmina as more of
20 a scarf type item. I think a wrap is a
21 little bit larger. I think they are kind of
22 used synonymously. Yeah. A wrap kind of
23 falls more over your shoulders, but I think
24 a pashmina is little bit on the large side.

25 Q. Okay.

1 MR. WELCH: Next I'd like to mark
2 as Exhibit 6 a four-page document entitled
3 "Perwinkle Collection II 2006."

4 (Exhibit No. 6 marked.)

5 Q. Mr. Barlow, would you please take a look at
6 Exhibit 6 and identify that for the record.

7 A. (Witness reviewing document.)

8 MR. BANNER: Is that 0003 through
9 0006?

10 MR. WELCH: Yes.

11 A. This is -- this is called Collection II of
12 2006. This is our Periwinkle catalog.
13 Collection II is just a fancy name for our
14 fall catalog, our second catalog, of 2006.
15 We have a winter catalog, which is called
16 the spring one, and this is the fall one.
17 So that's what Collection II refers to.

18 Inside is some clothing, photographs
19 of -- looks like wraps, pashminas, belts.

20 Q. Do you know approximately in what month this
21 catalog was distributed in 2006?

22 A. Yeah. It would be June of 2006. That's
23 when -- the catalog is completed in May. We
24 distribute it to our customers in June, and
25 then we actively sell it at all the major

1 trade shows starting in July. Actually,
2 late June, and into July and August.

3 MR. WELCH: Next I will ask the
4 reporter to mark as Exhibit 7 a multiple
5 page document marked with production 0007
6 through 0015.

7 (Exhibit No. 7 marked.)

8 Q. Mr. Barlow, would you please take a look at
9 Exhibit 7 and identify that for the record.

10 A. (Witness reviewing document.)

11 It's a Periwinkle catalog, Collection
12 I, would be the January catalog of 2007, and
13 I'm looking at the cover. And then inside
14 is just some jewelry and accessory items,
15 handbags and totes and scarves and wraps and
16 pashminas, several pages of them here or
17 more. Yeah. Headbands.

18 Q. When was that catalog distributed; what
19 month of the year would it have been?

20 A. January.

21 Q. So it would be January of 2007?

22 A. January 2007, yes.

23 MR. WELCH: Next I will ask the
24 reporter to mark as Exhibit 8 a document
25 entitled "Periwinkle Collection II 2007,"

1 production document 0016 through 0022.

2 (Exhibit No. 8 marked.)

3 A. (Witness reviewing document.)

4 Q. Mr. Barlow, could you identify that document
5 for the record, please.

6 A. This looks like a copy of our catalog cover
7 for 2007, Collection II, which would be the
8 fall catalog, and the table of contents
9 inside showing a variety of jewelry and
10 accessory items and clothing items and pages
11 of wraps and scarves. Quite a variety of
12 items, sizes and materials.

13 Q. And those are pages from the catalog?

14 A. These are pages from the catalog, yes.

15 Q. What month was that distributed?

16 A. This Collection II would be distributed in
17 June of 2007, and then actively sold as of
18 that time to trade shows and other venues.

19 MR. WELCH: I will ask the reporter
20 to mark as Exhibit 9 a document entitled
21 "Periwinkle Spring and Summer 2008." It's
22 product documents 0023 through 0028.

23 (Exhibit No. 9 marked.)

24 Q. Mr. Barlow, please take a look at Exhibit 9
25 and identify that for the record.

1 A. (Witness reviewing document.)

2 This is a Spring and Summer catalog
3 cover -- a copy of the Spring and Summer
4 catalog cover of Spring 2008, a table of
5 contents showing women's jewelry and
6 accessory items, and then looks like a
7 couple a pages of -- table of contents, and
8 then watches, a page of watches, headbands,
9 and pashminas.

10 Q. And what month was that distributed?

11 A. This would have been distributed in January
12 of 2008, started in January 2008.

13 Q. Thank you.

14 MR. WELCH: Next I will ask the
15 court reporter to mark as Exhibit 10 a
16 four-page document entitled "Fall, Holiday
17 and Resort 2008 Periwinkle."

18 (Exhibit No. 10 marked.)

19 Q. Mr. Barlow, would you identify Exhibit 10
20 for the record, please?

21 A. (Witness reviewing document.)

22 Yes. It's a copy of the cover of our
23 2008 Fall, Holiday and Resort Periwinkle
24 catalog, and inside is the table of
25 contents, a couple of pages showing the sale

1 of -- the presentation of product for sale
2 of scarves and pashminas of different
3 materials and construction.

4 Q. Thank you.

5 MR. WELCH: Next I will ask the
6 reporter to mark as Exhibit 11 a four-page
7 document, production numbers 0033 through
8 0036, and entitled "Periwinkle Spring and
9 Summer 2009."

10 (Exhibit No. 11 marked.)

11 Q. Mr. Barlow, would you identify Exhibit 11
12 for the record, please.

13 A. (Witness reviewing document.)

14 Yes. This is a copy of the cover of
15 our 2009 Spring and Summer catalog, table of
16 contents on the inside, and pages showing
17 the sale of our pashminas, handbags, and
18 hats.

19 Q. Thank you.

20 MR. WELCH: Next I'd like the
21 reporter to mark as Exhibit 12 a
22 four-page document, pages 0037 to 0040,
23 entitled "Periwinkle Fall and Holiday 2009"?

24 (Exhibit No. 12 marked.)

25 Q. Mr. Barlow, would you please identify

1 Exhibit 12 for the record?

2 A. (Witness reviewing document.)

3 Yes. It's a copy of our catalog, Fall
4 and Holiday 2009 Periwinkle catalog. Inside
5 there's a table of contents and some pages
6 showing the sale of our pashminas, wraps,
7 scarves of various construction and
8 materials.

9 Q. Thank you.

10 MR. WELCH: Next I will ask the
11 reporter to mark as Exhibit 13 a five-page
12 document, production numbers 0041 through
13 0045, and it's entitled "Periwinkle Spring
14 and Summer 2010."

15 (Exhibit No. 13 marked.)

16 Q. Mr. Barlow, would you please identify
17 Exhibit 13 for the record.

18 A. (Witness reviewing document.)

19 Yes. It's a copy of the cover of our
20 Periwinkle catalog from Spring and Summer of
21 2010. Inside is a table of contents from
22 that catalog and a copy of pages depicting
23 the sale of wraps, pashminas, and hats and
24 handbags of various materials and
25 construction.

1 MR. WELCH: Next I will ask the
2 reporter to mark as Exhibit 14 a five-page
3 document, production numbers 0046 through
4 0050 entitled "Periwinkle Fall and Holiday
5 2010."

6 (Exhibit No. 14 marked.)

7 Q. Mr. Barlow, would you please identify
8 Exhibit 14 for the record.

9 A. (Witness reviewing document.)

10 Yes. It's a copy of the cover of our
11 2010 Periwinkle catalog for Fall and
12 Holiday. Inside a table of contents and a
13 couple of pages -- several pages indicating
14 the sale of our jewelry and accessory items
15 including scarves and wraps and pashminas of
16 different materials and construction.

17 Q. Thank you.

18 MR. WELCH: I will ask the reporter
19 to mark as Exhibit 15 a multiple
20 page document production 51 through 56
21 entitled "Spring and Summer 2011."

22 (Exhibit No. 15 marked.)

23 Q. Mr. Barlow, would you please take a look at
24 Exhibit 15, Mr. Barlow, and identify that
25 for the record?

1 A. (Witness reviewing document.)

2 Yes. It's a copy of the cover of our
3 Periwinkle catalog Spring and Summer 2011,
4 and inside are copies of the table of
5 contents and products for sale of pashminas
6 and scarves and handbags and clutches of
7 various construction and design.

8 Q. Thank you.

9 MR. WELCH: Next I will ask the
10 reporter to mark as Exhibit 16 a multiple
11 page document production 57 through 62 and
12 entitled "Fall and Winter 2011."

13 (Exhibit No. 16 marked.)

14 Q. Mr. Barlow, would you please identify
15 Exhibit 16 for the record.

16 A. (Witness reviewing document.)

17 Yes. It's a copy of our Periwinkle
18 catalog from the Fall and Winter of 2011,
19 and inside is a copy of the table of
20 contents, and then several pages of hats and
21 scarves and pashminas of various
22 construction and materials.

23 Q. Thank you.

24 MR. WELCH: Next I will ask the
25 reporter to mark as Exhibit 17 a

multiple-page document. Production numbers
0063 through 0073 entitled "Spring and
Summer 2011."

(Exhibit No. 17 marked.)

Q. Mr. Barlow, would you please identify
Exhibit 17 for the record?

A. (Witness reviewing document.)

Yes. It's a copy of our Periwinkle
catalog for Spring and Summer of 2012.
Inside are some pages of table of contents
and products for sale, including hats and
scarves of various construction and
materials.

Q. Thank you, Mr. Barlow.

MR. WELCH: Next I will ask the
reporter to mark as Exhibit 18 a multiple
page document, production numbers 0074
through 0085 entitled "Fall and Winter
2012."

(Exhibit No. 18 marked.)

Q. Mr. Barlow, would you identify Exhibit 18
for the record, please.

A. (Witness reviewing document.)

Yes. It's a copy of our Periwinkle
catalog for Fall and Winter of 2012, and

1 inside are pages of the table of contents
2 and a number of pages of products indicating
3 the sale of scarves and hats, scarf and hat
4 sets and gloves, hand gloves.

5 Q. Now, the catalogs we've been looking at,
6 we've been looking at pages excerpted from
7 the catalogs, correct?

8 A. Yes, correct.

9 Q. Other pages of the catalog mostly show
10 jewelry items; is that correct?

11 A. I believe so, yes.

12 MR. WELCH: Next I will ask the
13 reporter to mark as Exhibit 19 a
14 multiple-page document, production numbers
15 0086 to 0094, entitled "Spring and Summer
16 2013."

17 (Exhibit No. 19 marked.)

18 Q. Mr. Barlow, would you please take a look at
19 Exhibit 19 and identify that for the record.

20 A. (Witness reviewing document.)

21 Yes. It's a copy of the cover of our
22 Periwinkle catalog for Spring and Summer of
23 2013, and inside is a table of contents, and
24 then a variety of pages showing the sale of
25 scarves of various construction and

1 materials and also the sale of hats.

2 Q. Thank you.

3 MR. WELCH: Next I will ask the
4 reporter to mark as Exhibit 20 -- hang on a
5 second.

6 Next I will the ask the reporter to
7 mark as Exhibit 20 a multiple-page document,
8 production numbers 0095 through 0103
9 entitled "Fall and Holiday 2013."

10 (Exhibit No. 20 marked.)

11 Q. Mr. Barlow, would you take a look at
12 Exhibit 20, please, and identify that for
13 the record?

14 A. (Witness reviewing document.)

15 Yes. It's a copy of our Periwinkle
16 catalog for Fall and Holiday of 2013, and
17 inside there's a table of contents and
18 advertising page, and then pages indicating
19 the sale of scarves, pashminas of a variety
20 of construction and materials.

21 Q. Thank you.

22 MR. WELCH: Next I will ask the
23 reporter to mark as Exhibit 21 a one-page
24 document, Barlow production number 161,
25 entitled "Shipments of 871 items 2005-2013."

(Exhibit No. 21 marked.)

Q. Before we look at that exhibit, Mr. Barlow, let me ask you a question about the catalogs.

The last catalog was dated 2013.

Have you distributed catalogs in 2014?

A. Yes.

Q. And did you do a spring and a fall catalog?

A. Yes, we did.

Q. Did those include the scarves and pashminas and wraps?

A. I believe they did, yes.

Q. Would you please take a look at Exhibit 21, Mr. Barlow, and identify that for the record.

A. (Witness reviewing document.)

Well, this is a listing from 2005 through 2013 indicating the sales of our -- we call them our 871 items, which would be the scarves and pashminas. And those can be some more clothing items such as the hats and gloves. I'm not sure. I don't know that. But this would be an indication of what we call our accessory items.

Q. Do you have any doubt that you were selling

1 pashminas and scarves in 2005 through 2013

2 any of those years?

3 A. We were selling all those years, those
4 items.

5 Q. Are these sales just United States sales?

6 A. I believe so. Some of the scarves might
7 have gone to the Caribbean, but --

8 Q. What about what percentage of your sales are
9 to the U.S.?

10 A. Probably 99 percent.

11 Q. And of the 871, quote-unquote, items what
12 percentage of those are approximately
13 scarves and wraps and pashminas?

14 A. I'm sorry. I don't know that answer. I
15 would say the vast majority; but, again, I
16 don't have that answer.

17 Q. Very good.

18 MR. WELCH: I would like to take a
19 break.

20 MR. BANNER: Perfect. I agree with
21 you.

22 (Short recess.)

23 MR. WELCH: Next I would like the
24 reporter to mark as Exhibit 22 a 14-page --
25 a set of 14 documents of various production

1 numbers, and we'll recite the production
2 numbers as we look at them. They are
3 entitled "Periwinkle by Barlow" and with the
4 Periwinkle address.

5 (Exhibit No. 22 marked.)

6 Q. Mr. Barlow, would you take a look at the
7 documents that have been marked collectively
8 as Exhibit 22 and identify them for the
9 record. You can do it one by one or
10 starting generally.

11 A. (Witness reviewing document.)

12 These are invoices that we sent to our
13 customers, looks like from around the
14 country in California, Delaware -- just
15 randomly -- New Mexico, Pennsylvania. Just
16 a variety of invoices. And they are dated
17 from June 2005, 2006, and I think 2012, June
18 of 2012 -- I guess it's a random
19 selection -- 2013, March of 2013. Looks
20 like a random selection. And the charges on
21 there indicate the sale of jewelry items --
22 a variety of jewelry items and scarves and
23 handbags.

24 Q. I see on some of the pages there are items
25 that begin with the number 871.

1 Are those the pashmina and wraps?

2 A. It appears so. 871 -- I see. Wrap, wrap --
3 let's see. I -- see, I should know this,
4 but I don't. My wife does all the
5 numbering. Once we set those up, the
6 numbers very seldom change. So 871, I see a
7 selection of them, wraps, pashminas.

8 Q. Okay.

9 A. Yeah.

10 Q. Let's go through them.

11 The first two pages are -- first three
12 pages are production numbers 162 to 164; do
13 you see those?

14 A. 0162 and 0164, your numbers.

15 Q. And that's an invoice to a company -- sorry.
16 Strike that. Strike that question.

17 Let's start with the first page,
18 Mr. Barlow.

19 A. Okay.

20 Q. It's invoice number 225561 to a company in
21 Fresno, California?

22 A. Correct. Correct.

23 Q. And includes fairly far down the list
24 pashminas, pashmina turquoise.

25 Do you see that?

1 A. Yes, correct.

2 Q. That's an indication that you invoiced
3 somebody for the sale of pashminas in June
4 of 2005?

5 A. Yes.

6 Q. That was production number 0162.

7 Next, production numbers 0163 and 0164
8 appear to be a single invoice to a company
9 in Milford, Delaware, correct?

10 A. Correct.

11 Q. And, again, on the same page, you see the
12 three items listed as "pashmina"?

13 A. Yes.

14 Q. And that, again, indicates you sold these
15 products to this company in Milford?

16 A. Correct.

17 Q. Next production numbers 0147 to 0149, that's
18 a single invoice to Holy Cross Hospital in
19 Tao, New Mexico, correct?

20 A. Correct. In July '06, correct.

21 Q. And the second page, does it indicate the
22 sale of -- there are four, five, six lines
23 indicating the sale of pashminas to this
24 customer?

25 A. Yes.

1 Q. That's on page 0148?

2 A. Correct.

3 Q. Next production document, 0165, is an
4 invoice to a company in Atlanta, Georgia
5 showing the sale of wraps, correct?

6 A. Correct.

7 Q. In 2007?

8 A. Yes.

9 Q. Next, document 0166 is a single-page invoice
10 to a company in Wakefield, Rhode Island,
11 correct?

12 A. Correct.

13 Q. Again, showing the sale of scarves and
14 pashminas?

15 A. Correct.

16 Q. Next page is 0167 and 0168, that's an
17 invoice to a company in Phoenixville,
18 Pennsylvania, correct?

19 A. Correct.

20 Q. And on the second page it shows the sale of
21 pashminas to that company in 2009?

22 A. Correct.

23 Q. Next, page 16 -- document number 0169,
24 that's a -- correct me if I'm wrong -- a
25 single-page invoice to a company in Selma,

1 Alabama?

2 A. Correct.

3 Q. And it shows the sale of pashminas to that
4 company in January 2010?

5 A. Correct.

6 Q. Next, Barlow production document, 0170, do
7 you see that, a single invoice, to a company
8 in Fresno, California?

9 A. Yes, I do.

10 Q. It shows on the bottom line sale of a wrap?

11 A. Yes.

12 Q. In March of 2011?

13 A. Yes.

14 Q. Next document, 0171, an invoice to a company
15 in Pine Mountain, Georgia, correct?

16 A. Correct.

17 Q. In June of 2012?

18 A. Correct.

19 Q. And it shows down towards the bottom the
20 sale of scarves to that company in June
21 of 2012?

22 A. Yes, it does.

23 Q. And, finally, production document 172 is an
24 invoice to a company in Stuart, Florida,
25 correct?

1 A. Correct.

2 Q. Indicating the sale of, final item, scarves
3 in March 2013?

4 A. Correct.

5 Q. Thank you.

6 Now, I take it these are sample
7 invoices of many that you have for scarves
8 and pashminas?

9 A. Oh, yes. Yeah.

10 Q. I want to go back to Exhibit 21. You can
11 just read this one [indicating].

12 A. Yes.

13 Q. Were those sales figures compiled from your
14 company records?

15 A. Yes, they were.

16 Q. And were they compiled at your direction?

17 A. Yes, they were.

18 Q. And were those records kept in the ordinary
19 course of business?

20 A. Yes, they were.

21 Q. Thank you.

22 MR. WELCH: Next I will ask the
23 reporter to mark as Exhibit 23 a collection
24 of documents marked with production numbers
25 0340 to 0346.

(Exhibit No. 23 marked.)

Q. Okay.

Mr. Barlow, would you please take a look at Exhibit 23, and can you identify that for the record, those pages?

A. (Witness reviewing document.)

Well, based on the numbers in the upper right-hand corner, these are copies of our Web site downloads.

Q. So these are copies of pages from your Web site?

A. From our Web site, yes.

Q. I see on the page -- the bottom of the first page, 0304, on the left-hand side scarves are included in the list of products?

A. Yes.

Q. Ponchos, how long have you been selling ponchos?

A. Ponchos? I'm sorry. I don't know. I would say I know it's several years. They are different names. I'm trying to think --

Q. That's fine.

A. Yes.

Q. And the second page shows -- displays a number of scarves that you are selling?

1 A. Yes.

2 Q. And the third page shows your lovely family?

3 A. Yes, it does.

4 Q. Which one is nicknamed Periwinkle?

5 A. Perri? That's her photo from her marriage.

6 Q. Which one is she?

7 A. She is in the white dress in the middle.

8 Q. Oh, yes, of course. White dress.

9 Okay. Thank you, Mr. Barlow.

10 MR. WELCH: Next I will ask the
11 reporter to mark two pages consisting of two
12 photographs. I will have you identify that.

13 (Exhibit No. 24 marked.)

14 Q. Mr. Barlow, would you please take a look at
15 the two-page document that's been marked
16 Exhibit 24, and identify that for the
17 record?

18 A. (Witness reviewing document.)

19 Yes. It's a photograph of -- or a
20 copy of a photograph showing our Periwinkle
21 label sewn into a scarf or pashmina. Well,
22 a couple of pictures of them. Actually,
23 one's a close-up. This is a close-up of
24 this one [indicating]. That's how we --

25 Q. And is that the way you typically use a

1 sewn-in label in the scarves and pashmina?

2 A. Yes, we are required to by law. There's
3 information on the back about the materials.

4 Q. And there's a federal law that requires you
5 to label them?

6 A. Yes.

7 MR. WELCH: Next I will ask the
8 reporter to mark a one-page document as
9 Exhibit 25, a one-page document, Barlow
10 production 0349.

11 (Exhibit No. 25 marked.)

12 Q. Mr. Barlow, would you please identify
13 Exhibit 25 for the record?

14 A. (Witness reviewing document.)

15 It's a copy of a photograph showing
16 the packaging of a -- cellophane packaging
17 of our scarves and how we do that with the
18 name Periwinkle on there. And there's a
19 further indication -- barcoding indicating
20 the design and style of the scarf, it looks
21 like.

22 Q. And do you think that's the same scarf
23 that's in the prior exhibit?

24 A. It would appear to be, but they came in
25 different colors.

1 Q. Now, am I correct -- strike that.

2 Are the scarves that you sell shipped
3 to customers in these plastic wrappings?

4 A. Yes.

5 Q. And do the customers typically sell them in
6 these plastic wrappings?

7 A. Yes, they do.

8 Q. Thank you.

9 MR. WELCH: Next I will ask the
10 reporter to mark as Exhibit 26 a one-page
11 document bearing the production number 0350.

12 (Exhibit No. 26 marked.)

13 Q. Mr. Barlow, would you take a look at
14 Exhibit 26 and identify that for the record,
15 please.

16 A. (Witness reviewing document.)

17 Yes. This is a tag that we use in
18 conjunction with the sale of our products,
19 women's products.

20 Q. Would you call that a hang tag?

21 A. Yes.

22 Q. And do you use those on occasion with
23 scarves and pashminas?

24 A. Yes, we do.

25 Q. Are those hang tags -- strike that.

1 When the retail customer sells the
2 product, are those tags attached?

3 A. Yes, oftentimes.

4 MR. WELCH: Let me ask the court
5 reporter to mark as Exhibit 27 another
6 one-page document; it's Barlow production
7 0352.

8 (Exhibit No. 27 marked.)

9 Q. Mr. Barlow, would you identify that for the
10 record, please?

11 A. (Witness reviewing document.)

12 Yes. It's the back of one of our
13 Periwinkle tags.

14 Q. Is it the back of the tag shown in
15 Exhibit 26?

16 A. It would appear to be. Yes. It's the same
17 tag, but who knows what the information is.
18 Yes, it appears to be the same.

19 Q. And, again, that's a hang tag that your
20 company attaches to pashminas and scarves
21 and wraps?

22 A. Yes.

23 Q. And those hang tags are on the part when
24 it's sold to the ordinary customers by
25 retailers?

1 A. Yes.

2 MR. WELCH: Next I will ask the
3 reporter to mark as Exhibit 28 a one-page
4 document bearing Barlow production number
5 0351.

6 (Exhibit No. 28 marked.)

7 Q. Mr. Barlow, please identify Exhibit 28 for
8 the record.

9 A. (Witness reviewing document.)

10 This is a tag that's used in the sale
11 of our Periwinkle scarves and clothing.

12 Q. And it's a hang tag of some sort that's tied
13 onto the scarf?

14 A. Yes. I think it's one -- an early tag that
15 we used.

16 Q. Um-hum.

17 And when the retailer sells the
18 product to the consumer, was that tag still
19 on that product?

20 A. Yes, most often.

21 Q. Can you read into the record what that tag
22 says?

23 A. Well, it shows the kind of Periwinkle with a
24 large P, and it just says, "Think pretty,
25 feel priceless, choose Periwinkle." Just

1 kind of a slogan, advertising slogan.

2 MR. WELCH: Next I will ask the
3 reporter to mark as Exhibit 29 a one-page
4 document, Barlow production 353.

5 (Exhibit No. 29 marked.)

6 Q. Mr. Barlow, please identify Exhibit 29 for
7 the record.

8 A. (Witness reviewing document.)

9 This looks like a copy from our Web
10 site. It's called "Store Locator." It's a
11 program that people get into through our Web
12 site, indicating the sale of -- where our
13 products are sold in anyone's given zip code
14 or close to their zip code.

15 Q. Is that Longfellow's Greenhouses of
16 Manchester, Maine a customer of yours?

17 A. Yes, they are.

18 MR. WELCH: Next I will have the
19 court reporter mark as Exhibit 30 a two-page
20 document, Barlow production numbers 0354 to
21 0355.

22 (Exhibit No. 30 marked.)

23 Q. Mr. Barlow, please identify Exhibit 30 for
24 the record.

25 A. (Witness reviewing document.)

1 This looks like a copy of a Web site
2 of from Longfellow's Greenhouses.

3 Q. And that's the customer of yours that we saw
4 in the prior exhibit, 29?

5 A. Yes. It would appear to be, yes.

6 Q. Do you see the second paragraph on the right
7 where it says, quote, Periwinkle is a
8 stunning accessory line, closed quote?

9 A. Yes, I do.

10 Q. Do your customers often refer to your
11 company and products as "Periwinkle"?

12 A. Yes, primarily as Periwinkle.

13 Q. Is that true with regard to the pashminas
14 and scarves and wraps?

15 A. Yes. Yes.

16 Q. Thank you.

17 MR. WELCH: Let me just take a
18 couple of minutes and see what else I have.
19 Thank you.

20 (Short recess.)

21 MR. WELCH: I have no further
22 questions.

23 * * * * *

24 EXAMINATION BY MR. BANNER

25 Q. Mr. Barlow, Brian Banner. I represent the

1 Philippine company that has the
2 registration -- I represent the respondent
3 in this cancellation. I'm here today to
4 just ask a few questions about some of the
5 exhibits.

6 Mr. Barlow, will you take a look at
7 Exhibit 23, page 0345, and tell me what that
8 shows on it.

9 A. (Witness reviewing document.)

10 This shows -- looks like a copy of a
11 page from our Periwinkle Web site store
12 locator, and shows that -- I guess it's a
13 store locator page --

14 Q. Okay.

15 A. -- and it's showing I think where we sell
16 our products to the Mole Hole of Fort Myers,
17 and another one -- yeah. I guess it's Fort
18 Myers and Newtown, Connecticut.

19 Q. I will take my exhibit back. I just want to
20 make sure I'm reading this right.

21 You've got Bristol, Rhode Island on
22 that.

23 Do you see Bristol, Rhode Island on
24 that, number one?

25 A. I'm sorry. Yes, I do. So there's three.

1 One is Bristol, Rhode Island, and one is
2 from Fort Myers, the other one from Newton,
3 Connecticut.

4 Q. Yes.

5 Have you ever been to this store in
6 Bristol?

7 A. No. No. I've been to none of those stores.

8 Q. Okay.

9 A. My salespeople do that.

10 Q. Excellent. Excellent.

11 For some reason I thought that was one
12 of your family stores.

13 A. Well, it's one of my forbearers was one of
14 the founding fathers of Bristol,
15 Rhode Island.

16 Q. Really?

17 A. That was John Gladding actually.

18 Q. Mr. Barlow, have you ever been deposed
19 before?

20 A. Excuse me. What?

21 Q. Have you ever been in a deposition before?

22 A. Yes, I have.

23 Q. Can you explain when?

24 A. It was probably a couple of summers ago I
25 was in one -- I don't know if it was two

1 summers ago or whatever -- regarding the
2 Periwinkle trademark.

3 Q. Okay.

4 And was it a deposition with regard to
5 anything -- any proceeding in the Trademark
6 Trial and Appeal Board?

7 A. Yes, it was.

8 Q. Do you recall anything about that proceeding
9 in the Trademark Trial and Appeal Board from
10 a couple of years ago?

11 A. Well, I just remember the general question
12 and answers, yes.

13 Q. Do you remember who the parties were?

14 A. Well, it was the Sporn Company I think is
15 what they were called regarding their
16 Perrywinkle's trademark. They didn't have a
17 trademark. I had a trademark but they
18 didn't. Perrywinkle's was spelled
19 P-E-R-R-Y-W-I-N-K-L-E-S. Apostrophe S,
20 right? Apostrophe S. Perrywinkle's. Yes.

21 Q. Do you recall the outcome of that
22 proceeding?

23 A. The outcome of that proceeding was that we
24 came to an agreement. Took a while, long --
25 but we finally came to an agreement that

1 they would maintain the trademark -- no.
2 They would be allowed to register the
3 trademark Perrywinkle's and we would
4 maintain our trademark for Periwinkle.

5 Q. So there was a written agreement that I
6 believe was produced --

7 A. Yes.

8 Q. -- in discovery?

9 A. Right.

10 Q. And do you remember what you agreed to in
11 terms of use of your Periwinkle in
12 paragraph two of that agreement that you
13 signed, consent agreement, in 2003?

14 A. Well, without a copy of the agreement in
15 front of me, I couldn't say, so I don't know
16 what was in paragraph two. There was a lot
17 of stipulations there.

18 Q. Yeah.

19 A. So...

20 Q. I have it on my computer.

21 Would you like to refresh your
22 recollection? And I can give you a copy of
23 paragraph two of that agreement.

24 Is that okay with you?

25 A. I believe so.

1 MR. Banner: Do you happen to have
2 one handy?

3 MR. WELCH: I don't have it with me
4 now.

5 MR. Banner: Okay.

6 Q. And have you been involved -- not that
7 particular proceeding, but have you been
8 involved in any other proceedings regarding
9 your Periwinkle trademark other than this
10 cancellation proceeding?

11 A. I believe there was one -- yes, there was
12 one other.

13 Q. Do you recall?

14 MR. WELCH: If you don't recall,
15 just say you don't recall.

16 A. I don't recall all the details of that. I
17 just remember there was some challenge going
18 one way or the other. I believe it was
19 regarding a retailer.

20 Q. In the last four weeks have you reviewed
21 business documents in preparation for this
22 deposition?

23 A. Just peripheral ones. My attorney prepared
24 me for some, yes.

25 Q. The last four weeks, you counseled with

1 Mr. Welch about your deposition today?

2 A. Yes. Yes, I have.

3 Q. And did you counsel with any other attorney
4 about your deposition today?

5 A. No. I mean, there was -- there's another
6 attorney involved named Robert Dougherty.
7 So I've had a variety of conversations with
8 him, but I can't remember what exactly it
9 pertained to, because there are a number of
10 trademark issues that we are sifting
11 through. So I -- without any written
12 document in front of me, I'm sorry.

13 Q. I appreciate that.

14 A. I can't recall. Yes.

15 Q. I appreciate that. I've read the document.
16 I'm looking for it on my computer. I'm
17 sorry I don't have it. I was in Florida
18 yesterday and I asked the guy to print off
19 the document, but of course he didn't do it.
20 I printed a bunch of other documents, and
21 then as I got on a plane I discovered I
22 didn't have it.

23 I recall that one of the things --
24 that whole matter had to do with jewelry.
25 It has nothing to do with --

1 A. Correct.

2 Q. And in the jewelry business, apparently
3 Sporn's in the fine jewelry business --

4 A. Correct.

5 Q. -- where they make stuff out of gold and
6 platinum and stuff?

7 A. Correct.

8 Q. Do you make anything -- does your business
9 sell gold and platinum jewelry?

10 A. No, we don't. We do a little bit of
11 sterling, but that's it. And that's
12 permitted under the agreement that I recall.
13 But minimal, because we're really in the
14 fashion jewelry business, which is base
15 metals, plated, and not precious gemstones.

16 Q. So it's really two separate marketplaces?

17 A. Yes. Clear delineation of that.

18 Q. Do they also sell in the gift business --

19 A. No. No.

20 Q. -- the gift industry, I believe you said?

21 A. No. No. They have to steer clear of the
22 gift industry. And they are a retailer --
23 they are a retailer of fine jewelry.

24 Q. Okay.

25 They don't advertise where you

1 advertise?

2 A. Not really, no. There might be some overlap
3 there.

4 Q. But you've never experienced any confusion
5 with them in the marketplace?

6 A. No. No. Nominal, if any. None that I can
7 recall.

8 Q. There's extensive exhibits of catalogs here
9 today.

10 A. Yes.

11 Q. It's very impressive showing your use of
12 your mark on wraps and scarves going back to
13 2005.

14 You mentioned that you sell men's
15 jewelry and you mentioned that you sell some
16 men's and children's clothing or kids
17 clothing?

18 A. No children's clothing, children's jewelry.

19 Q. Children's?

20 A. It is under the Periwinkle label.

21 Q. And what would that kind of jewelry be?

22 A. They call them Little Loves, Little Loves.
23 For First Communion, it would be a theme,
24 and then there's other stuff with little
25 butterflies and sweet little stuff. We sell

1 lots of it. Some of our bigger customers
2 buy lots of it.

3 Q. And men's jewelry, you sell cufflinks and
4 tie clips?

5 A. We used to. Now it's -- I would call our
6 men's jewelry money clips. That would be
7 really considered more an accessory item
8 than a jewelry item, but that's under the
9 Barlow name and the Barlow label. Barlow is
10 kind of more men's and decorative
11 accessories. Periwinkle is more women's and
12 women's accessories.

13 Q. And I noticed that your exhibits of catalogs
14 begin in 2005 and just has "Periwinkle" on
15 the front until, I think, 2010 or 2011, and
16 then it says "Periwinkle by Barlow."

17 Why did you switch?

18 A. Well, I think it was on and off for a while.
19 We just thought -- we were trying to promote
20 Barlow -- promote Periwinkle through the
21 name Barlow on the strength of our name, on
22 Barlow. We had good will with the name
23 Barlow. So we used that to springboard or
24 launch Periwinkle into our account base.

25 Q. Makes sense.

1 A. Yeah. So -- and then -- so then I believe
2 we used it alternately. Most of our
3 customers have always referred to it as
4 "Periwinkle" anyways. "Periwinkle jewelry."
5 And based on that agreement with Sporn, it
6 was -- we had to put Periwinkle by Barlow in
7 there.

8 Q. So you use Periwinkle by Barlow for your
9 jewelry, and they just use their spelling of
10 Perrywinkle's and their fine jewelry which
11 is gold and precious stones, platinum?

12 A. Right.

13 Q. Okay. That makes sense.

14 I have here -- I'm going to mark it as
15 A -- a printout of the TSDR from the
16 Trademark Trial and Appeal Board with
17 Periwinkle design. I will mark this A.

18 (Exhibit No. A marked.)

19 MR. Banner: This is five pages and
20 this will be Respondent's Exhibit A.

21 Q. Could you take a look at that and --

22 A. Yes.

23 MR. BATES: No Bates numbers.

24 Q. I believe that's an application for retail
25 store services.

1 MR. WELCH: It's not a Barlow
2 application, though?

3 MR. Banner: It's not yours, no.

4 A. (Witness reviewing document.)

5 Yeah. So it looks like some account
6 down in -- or store down in Arlington,
7 Virginia. This looks kind of like legal
8 information. I'm not well versed in it.

9 Q. You don't recall discussing that with either
10 of your attorneys?

11 A. Oh, no. No, I do. And I remember -- I just
12 remember they backed down. There was
13 some -- in fact, there was some confusion
14 with me because it was in discussion with
15 John about --

16 MR. WELCH: Please don't talk about
17 discussions with your attorney, Mr. Barlow.

18 A. Okay. Suffice to say it was some confusion.
19 This case was resolved. It's been this one
20 there's been a lot of stuff going on. So
21 you are asking me information, and I just...

22 Q. Okay.

23 MR. Banner: I will give this back
24 to you for your records.

25 MR. WELCH: I have a stack here.

1 Q. I'm now going to show you another
2 page generated from TSDR on 3/7/15, for
3 application serial number 86201891. I
4 believe this is something that you are
5 familiar with.

6 (Exhibit No. B marked.)

7 A. (Witness reviewing document.)

8 Periwinkle by Barlow. What is this?
9 This is -- did you say a download from the
10 trademark site?

11 So what am I supposed to -- what's the
12 nature of your question?

13 Q. Just to refresh your recollection, could you
14 read what the mark is in the upper
15 right-hand corner?

16 A. It says "Periwinkle by Barlow."

17 Q. In the middle of the page under "Goods and
18 Services," it should say what the goods are.

19 A. "Goods and Services, belts, blouses,
20 bottoms, caps, coats, dresses, gloves, hats,
21 goods, infant wear, men's and women's
22 jackets, coats, trousers, vests," et cetera,
23 et cetera.

24 Q. Okay. Thank you. Give it to him.

25 A. Okay.

1 Q. You have other applications pending at the
2 PTO?

3 A. Yes.

4 Q. And we don't need to go through them all.
5 Some of them relate to children's
6 clothing?

7 A. Yes, I believe so.

8 Q. Okay.

9 And maybe we'll do just one more
10 because it's right here and I've got the
11 children's clothing highlighted.

12 (Exhibit No. C marked.)

13 Q. This will be C. I'm going to hand you this
14 document and ask you to read what the goods
15 are in that document in the center of the
16 page. I should have identified it by the
17 serial number.

18 Would you read the serial number up in
19 the top left?

20 A. It's 86201868.

21 Q. And the mark is "Periwinkle" in all caps?

22 A. Correct.

23 Q. And the goods in there are?

24 A. Children's, infants' apparel, and dresses,
25 gloves, hoods, hats, shirts for infants,

1 babies, toddlers, children's. It's just a
2 random sampling.

3 Q. Yeah. Okay.

4 And your exhibits that you showed one
5 through 20 up to Fall and Holiday 2013
6 catalogs, from 2005 to 2013, would you
7 purchase anything from that catalog for a
8 person between the ages of three and nine?

9 MR. WELCH: Would he just --

10 A. Well, a Little Loves bracelet.

11 Q. The Little Loves, okay.

12 A. And I can't speak to whether or not someone
13 would buy the other products for their
14 children, the hats and pashminas and
15 everything else like that.

16 Q. Are you a father -- you're a father, I know?

17 A. Yeah. Right.

18 Q. Are you blessed with any grandchildren?

19 A. A couple, yes.

20 Q. Have you ever bought any Periwinkle for your
21 grandchildren?

22 A. No. That's -- my wife would do that. I
23 would not.

24 Q. Okay.

25 MR. Banner: I have no further

1 questions. Thank you.

2 MR. WELCH: Thank you, Mr. Banner.

3 (Whereby the proceedings were
4 concluded at 11:18 a.m.)

5 * * * * *

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

I, Jill Shepherd, Notary Public, in
and for the Commonwealth of Massachusetts,
do hereby certify that:

STEVEN B. BARLOW, the witness whose
deposition taken on April 10th, 2015 is
hereinbefore set forth, was satisfactorily
identified, and was duly sworn by me, and
that the foregoing transcript is a true and
accurate record of the testimony given by
such witness and such testimony is a true
and accurate transcription of my stenotype
notes to the best of my knowledge, skill,
and ability.

I further certify that I am not
related to any of the parties in this matter
by blood or marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand and notarial seal this 20th day
of April 2015.



Jill Shepherd, RPR
Notary Public

My Commission expires: April 9, 2021

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Reference No.: 309481.361857

Case: BARLOW DESIGNS VS. CHIN

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION 'ERRATA' SHEET hereof, with the understanding that I offer these changes as if still under oath.


STEVEN B. BARLOW

NOTARIZATION OF CHANGES
(If Required)

Subscribed and sworn to on the 28th day of

April, 2015 before me,

(Notary Sign) Linda A. Lass

(Print Name) Linda A. Lass Notary Public,

in and for the State of Rhode Island

Reference No.: 309481.361857

Case: BARLOW DESIGNS VS. CHIN

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STEVEN B. BARLOW